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Date:	December 6, 2004	Must Be Sent By:	ASAP
To:	Examiner Marlon T. Fletcher	Fax No:	(703) 872-9306
Company:	United States Patent and Trademark Office	Phone No:	(571) 272-2063
From:	Mark R. Kendrick	Phone No:	213.488.7253
User No:	14238	C/M No:	51270-307011

## Comments:

Application Serial No. 10/722,254  
Filed: November 25, 2003  
Title: Musical Tone Reproducing Apparatus

To Examiner Fletcher :

Please find attached our Response to Notice of Non-Compliant Amendment that we filed for the above-identified application today, Monday, December 6, 2004.

Please assist us in advancing the prosecution on this patent application.

Sincerely,

## Confidentiality Note:

The documents accompanying this facsimile transmission may contain confidential information which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, or the person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in this transmission is strictly PROHIBITED. If you have received this transmission in error, please immediately notify us by telephone and mail the original transmission to us. Thank you.

  
Mark Kendrick  
Registration No. 48,468

If you have not properly received this fax, please call (213) 488-7577. Thank you.

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70527814V1

Attorney's Docket 51270-307011  
Client Reference: H7699US

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re PATENT APPLICATION of:  
YASUYUKI MURAKI

Confirmation Number: 6058

DEC 06 2004

Application No.: 10/722,254

Group Art Unit: 2837

Filed: November 25, 2003

Examiner: MARLON R. FLETCHER

For: Musical Tone Reproducing Apparatus and Portable Terminal Apparatus

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## AMENDMENT/RESPONSE TRANSMITTAL

Transmitted herewith is an amendment/response for this application.

## FEES

The fee for claims and extension of time (37 C.F.R. 1.16 and 1.17) has been calculated as shown below:

	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDIT. FEE
TOTAL	10	-	20	= 0	X \$ 18.00 = \$ 0.00
INDEP.	1	-	3	= 0	X \$ 88.00 = \$ 0.00
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ \$ 300.00 = \$ 0.00
TOTAL ADDITIONAL CLAIM FEE					\$ 0.00

Attorney's Docket 51270-307011  
Client Reference: H7699US

PATENT

## FEE PAYMENT

Authorization is hereby made to charge the amount of \$0.00 to Deposit Account No. 161805. Charge any additional fees required by this paper or credit any overpayment in the manner authorized above. A duplicate of this paper is attached.

Date: December 6, 2004  
PILLSBURY WINTHROP LLP  
725 South Figueroa Street  
Suite 2800  
Los Angeles, CA 90017-5406  
213 488-7253

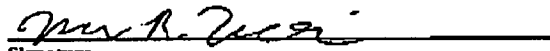
  
MARK R. KENDRICK  
Reg. No. 48,468

## CERTIFICATION UNDER 37 C.F.R. §§ 1.8 and/or 1.10\*

(When using Express Mail, the Express Mail label number is mandatory; Express Mail certification is optional.)

I hereby certify that, on the date shown below, this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: December 6, 2004

  
Signature  
MARK R. KENDRICK  
(type or print name of person certifying)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

DEC 06 2004

**PATENT**  
**51270-307011**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

Y. MURAKI

Serial No: 10/722,254

Filed: November 25, 2003

For: MUSICAL TONE REPRODUCING  
APPARATUS AND PORTABLE TERMINAL  
APPARATUS

) Art Unit: 2837

) Examiner: FLETCHER

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December 6, 2004

Date of Deposit

Mark R. Kendrick, Reg. No. 48,468  
Name

*Mark R. Kendrick* 12/6/2004

Signature

Date

**RESPONSE TO NOTICE OF NON-COMPLIANT**  
**AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Examiner Fletcher:

In response to the November 12, 2004 Notice of Non-Compliant Amendment, applicant attaches an e-mail from the Ms. Terry J. Dey, Deputy Commissioner for Patent Examination Policy, identifying that we do not have to list the claims unless an amendment has been made to the claims.

In regard to our Response filed November 3, 2004, the applicant did not amend the claims. Thus, the applicant does not have to list the claims.

We have attached a copy of the November 3, 2004 response for your convenience.

**PATENT  
51270-307011**

Applicant believes that the foregoing remarks place the application in condition for allowance, and a favorable action is respectfully requested. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call either of the undersigned attorneys at the Los Angeles telephone number (213) 488-7100 to discuss the steps necessary for placing the application in condition for allowance should the Examiner believe that such a telephone conference would advance prosecution of the application.

Respectfully submitted,

PILLSBURY WINTHROP LLP

Date: December 6, 2004

By: Mark R. Kendrick  
Mark R. Kendrick  
Registration No. 48,468  
Attorney for Applicant(s)

725 South Figueroa Street, Suite 2800  
Los Angeles, CA 90017-5406  
Telephone: (213) 488-7100  
Facsimile: (213) 629-1033

**Kendrick, Mark R.**

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**From:** Patent Practice [PatentPractice@USPTO.GOV]  
**Sent:** Friday, December 03, 2004 10:16 AM  
**To:** Kendrick, Mark R.  
**Subject:** RE: Amendment Practice - Question

Dear Mr. Kendrick,

No complete claim listing is required when applicant is merely submitted arguments or an election in response to an office action. A claim listing is only required when amendments are being made to the claims. You may forward this email to the legal instruments examiner if you like. She can also contact our office directly by telephone if she has questions about 37 CFR 1.121. The number is 571-272-7703.

I hope this helps,

Ms. Terry J. Dey  
Office of Patent Legal Administration  
Deputy Commissioner for  
Patent Examination Policy  
United States Patent and Trademark Office

-----Original Message-----

**From:** Kendrick, Mark R. [mailto:mkendrick@pillsburywinthrop.com]  
**Sent:** Thursday, December 02, 2004 2:16 PM  
**To:** Patent Practice  
**Subject:** RE: Amendment Practice - Question

Dear Ms. Dey,

Thank you for your assistance.

The application number is 10/722,254 (the application is Muraki and the Filing Date is 11/25/03). I did not provide it in the first place because I did not want to seem confrontational to the Legal Instruments Examiner. I just wanted to make sure I understood the rule.

Mark

-----Original Message-----

**From:** Patent Practice [mailto:PatentPractice@USPTO.GOV]  
**Sent:** Thursday, December 02, 2004 11:06 AM  
**To:** Kendrick, Mark R.  
**Subject:** RE: Amendment Practice - Question

Thank you for your inquiry.

Please provide the application number so that we may look into this matter.

Ms. Terry J. Dey

Office of Patent Legal Administration  
Deputy Commissioner for  
Patent Examination Policy  
United States Patent and Trademark Office

-----Original Message-----

**From:** Kendrick, Mark R. [mailto:mkendrick@pillsburywinthrop.com]  
**Sent:** Thursday, December 02, 2004 12:46 PM  
**To:** Patent Practice  
**Subject:** Amendment Practice - Question

Message Directed to Gena Jones, Joe Narcavage, and Elizabeth Dougherty:

I am a patent attorney. On a case that we are responsible for, we filed a response with no amendment to the claims. The response was labeled as a "Response." According to our reading of the change in amendment practice, if we do not make amendments to the claims, then we do not have to list or set forth the claims in the response (and thus we did not). The Legal Instruments Examiner said we filed a non-compliant amendment because in the "Remarks" section of our response, we set forth a claim (in order to distinguish it over the prior art) and thus we should have listed all of the claims.

Please help me clear this up and tell us what the proper rules are.

Mark Kendrick  
Reg. No. 48,468

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**Mark R. Kendrick**  
**Pillsbury Winthrop, LLP**  
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Los Angeles, CA 90017-5406  
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